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secution of minor or trivial offences. *People v. Justices*, 74 N. Y. 406; *Byers v. Commonwealth*, 42 Pa. St. 89. Other courts make the distinction that it is valid to have a criminal trial without jury in the first instance when the defendant is given an unfettered right of appeal and trial by jury in the appellate court. *Jones v. Robbins*, 8 Gray (Mass.) 329; *Emporia v. Volmer*, 12 Kan. 622.

CORPORATIONS—STOCK—CONSTRUCTION OF BY-LAW.—*GELLERMAN v. ATLAS FOUNDRY AND MACH. CO., et al.* 87 Pac. (WASH.) 1059.—*Held*, that when, under a by-law of a corporation providing that the trustees may at their discretion declare dividends, a dividend is declared on the paid-up stock, a like dividend upon unpaid subscriptions for stock accrues and must be paid. *Root, Crow & Hadley, JJ. dissenting.*

This seems to be a new question in the American courts, though in accord with the English rule, *Cook on Stockholders and Corporation Law* § 540; *Oakbank Oil Co. v. Crum L. R.*, 8 App. 65. Its principle does not appear to be fully established in the United States, *Thompson v. Erie Ry. Co.* 42 How. Pr. 68 (N. Y.); *Bailey v. Hannibal etc. Ry. Co.*, 2 Fed. Cas. No. 736. Equity will prevent any discrimination in the distribution of dividends among stockholders of the same class. *Cratty v. Peorie Law Library Assn.*, 76 N. E. (Ill.) 707. The class is determined by a pledge of profits in favor of certain shares in preference to others. *Taft v. Hartford etc. Ry. Co.* 8 R. I. 310. Against the main case it is held that the discretion of the trustees is controlling, *Jackson v. Newark Plankroad Co.*, 31 N. J. T. 277; *Williams v. Western U. Tel. Co.*, 93 N. Y. 162, with which, in the absence of fraud the courts will not interfere. *Bryan v. Sturgis Nat. Bank*, 90 S. W. (Tex.) 704. The By-law is a part of the contract. *Hazelton v. Belfast, etc. R. Co.*, 79 Me. 410; under which no dividends "accrue" until they are declared by the trustees. *Parks v. Automatic Bank Punch Co.*, 14 Daly (N. Y.) 424.

CRIMINAL LAW—EVIDENCE—EVIDENCE OF OTHER OFFENSES.—*TOPOLEWSKI v. STATE*, 109 N. W. 1037 (Wis.)—*Held*, on a prosecution for theft, the state claiming that the accused had conspired with another to steal property, it was error to admit evidence that the accused had, prior to the occurrence in question, conspired with another person to steal prosecutor's property. In any transaction, evidence of a similar act is relevant only for the purpose of showing the intent. *U. S. v. Fleming*, 18 Fed. Reporter 907. Evidence of similar frauds on the part of the defendant is admissible for purpose of showing the *animus*. *People v. Hughes*, 36 N. Y. Supp. 493. In criminal prosecution, evidence should be confined to the offence charged, except where another act is so connected with it that its commission directly tends to prove some element of the alleged offense. *Paulson v. State*, 118 Wis. 89. Testimony as to a former offense in the same house, and with which the defendant was connected, is irrelevant, unless it shows *animus*. *Lightfoot v. People*, 16 Mich. 507. And it is not competent for the prosecution to place before the jury facts tending to show another distinct offence, so as thereby to raise a presumption that the party is guilty of the offence charged. *Lightfoot v. People*, 16 Mich. 507.

CRIMINAL LAW—FAILURE OF DEFENDANT TO TESTIFY—COMMENT THEREON REVERSIBLE ERROR.—*PERKINS v. TERRITORY*, 87 PAC. 297 (OKL.). *Held*, where the defendant is on trial, charged with the commission of a crime and fails to